

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 3rd day of April, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NOS. 18677 & 18678 OF 1988

BETWEEN :

IN W.P.No. 18677/88

1. The Karnataka Dalith Sangharsha Samithi,
No. 1, Indiramahal Lodge,
Gandhinagar,
Bangalore - 560 009, by its
Organising Convenor,
Bangalore Unit

IN W.P.No. 18678/88

2. S.R. Thimmapura,
Field/Office Guard,
The Karnataka State Forest.
Industries Corporation Ltd.,
Saw Mills,
Dandeli (North Kanara)

.. PETITIONERS

(Sri O. Sridharan, Advocate for
petitioners)

A N D :

1. The Karnataka State Forest Industries Corporation Ltd.,
(A Government of Karnataka Undertaking) No. 32/1, and 2,
Crescent Road,
Bangalore - 560 001, by its
Managing Director

2. The State of Karnataka,
Secretary to Food and
Forest Department,
Multistoried building,
Dr. Ambedkar Veedhi,
Bangalore - 560 001
3. Sri K.V. Jayaram,
Assistant, K.S.F.I.C.
Fire Wood Depot,
Korpalaiah Choultry,
Fort Road,
Shimoga - 577 201
4. G.S. Shivalingeshappa,
Assistnat, K.S.F.I.C.
Weigh Bridge,
Alkola, B.H. Road,
Shimoga - 577 201
5. Sri K.S. Madinoor,
Assistnat, K.S.F.I.C.
Fire Wood Depot,
Post Honnali,
Shimoga district
6. H.V. Naganna
Assistant, office of the
Project Officer,
K.S.F.I.C. Ltd.,
No. 273/4, New Layout,
Indiranagar,
Post Mysore - 10.
7. Sri H.V. Rajanna
Assistnat,
c/o. K.S.F.I.C. Fire Wood
Depot, Sandi Market,
Post Chickmagalur
8. Sri A.H. Jayaramaiah,
Assistant, K.S.F.I.C.
Supervisor, c/o. M/s. Soumya
Enterprises,
Behind Hotel Delux Wood Lands,
B.H.Road, Tumkur Post.


W

9. Sri Shivashankar,
Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
10. Sri Syed Hafeez,
Assistant, K.S.F.I.C.
Fire Wood Depot,
Honnali Road,
Shimoga - 577 201
11. M. Nagaraja, Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
12. S. Shankarappa,
Assistant,
K.S.F.I.C. Fire Wood Depot,
Ramanna Setty Park,
Shimoga - 577 201
13. Sri M.G. Chandrasekarappa,
Assistant, K.S.F.I.C.
Fire Wood depot,
Circuit house Road,
Shimoga - 577 201
14. K.H. Chandrappa,
Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Malavagoppa,
Shimoga District
15. G. Murthy, Assistant,
Office of the Regional
Manager, the K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
16. Anjaneya
Assistant, office of the
Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road, Shimoga - 577 201


W


17. Smt. K.B. Nageswari
Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
18. K.N. Naik,
Assistant, Office of the
Regional Manager,
K.S.F.I.C. Ltd.,
Old S.P. Office,
Belgaum Road,
Dharwad
19. S.V. Banakar,
Assistant, Office of the
Regional Manager,
K.S.F.I.C. Ltd.,
Old S.P. Office,
Belgaum Road,
Dharwad
20. M.R. Sawkar,
Assistant, K.S.F.I.C.
Fire Wood Depot,
Near Rani Channamma Park,
Dharwad
21. T.M. Patil,
Assistant, K.S.F.I.C.
Fire Wood Depot,
Post Ranibennur,
Dharwad District
22. P.P. Hiriyannai ah,
Assistant,
K.S.F.I.C. Logging Supervisor,
Post Devikoppa,
Teluka Kalghatagi,
Dharwar district
23. B.R. Anantharaju,
Assistant,
K.S.F.I.C. P.B.M. Unit,
c/o. M/s Rajalaxmi Plastic Industries,
Belgaum.

4

24. S.V. Veerapur
Assistant, K.S.F.I.C.
Fire Wood Depot,
Post Akki Alur,
Dharwar district
25. Y.S. Desh Bhandari
Assistant,
Fire Wood Section,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Old S.P. Office,
Belgaum Road,
Post Dharwad
26. R.R. Hatti,
Assistant, K.S.F.I.C.
Fire Wood Depot,
Post Hirekerur,
Dharwad District
27. S.S. Angadi,
Assistant, PBM Unit,
Supervisor,
c/o. Mahakuteswar Plastic
Industries, Block No. 60/2,
Navalur Industrial Area,
Sattur Post,
Dharwad - 580 002
28. N.B. Reddy,
Assistant, K S F I C
Supervisor,
c/o Tungabhadra Plastic Industries,
No. 260, Ground floor,
Amaravathi,
Post Hospet - 583 201
Bellary District
29. S.I. Bh~~ad~~rapur,
Assistant, K S F I C
Releasing Agent,
Government Timber Depot,
Post Devikoppa,
Kalaghatagi Taluk,
Dharwar district
- 

30. D.G. Chapalkar,
Assistant, K S F I C
Logging Supervisor,
c/o Range Forest Officer,
Government Timber Depot,
Post Gunji,
Khanapur Taluk,
Belgaum District
31. S.B. Patil,
Assistant,
K S F I C Ltd.,
R.H. Baddi Chal,
Hubli Road,
Yellapur Post,
Karwar District (N.K.)
32. B.V. Anagoudar,
Assistant, KSFI C
Fire Wood Depot,
Wadagov,
Post Belgaum
33. R.S. Talekar,
Assistant,
c/o Gundu B. Patil,
Post Tavaragatti,
Khanapur Taluk,
Belgaum district
34. K.B. Gouda,
Assistant, K.S.F.I.C. agent,
c/o. Range Forest Officer,
Post Joida
North Kanara District
35. R.G. Naik,
Assistant, Supervisor,
K S F I C Ltd.,
Post Devikoppa,
Kalaghatagi Taluk,
Dharwad District
36. V. Sudarshan,
Assistant, Office of the
Project Officer, K.S.F.I.C. Ltd.,
No. 273/4, New Layout,
Indiranagar,
Mysore - 10
- W

37. Puttegowda,
Assistant, Office of the
Project officer, KSFIC Ltd.,
No. 273/4, New Layout,
Indiranagar,
Mysore - 10
38. M.C. Neluvigi,
Assistant, KSFIC
Fire Wood Depot,
Post K.R. Nagar,
Mysore District
39. G.B. Doddamani,
Assistant,
c/o. Office of the Project
Officer, K S F I C Ltd.,
No. 273/4, New Layout,
Indiranagar, Mysore - 10
40. B. Srikantaswamy,
Assistant, K S F I C Fire
Wood Depot,
Post Chamarajanagar,
Mysore District
- 41.. K.N. Shastri,
Assistant,
K.S.F.I.C. Fire Wood Depot,
Monkey Stand,
Mangalore
42. N.R. Hegde,
Assistant, Office of the
Manager, K S F I C Ltd.,
Alpe, Mangalore
43. N.P. Joshi
Assistant, K S F I C,
Fire Wood Depot,
Alake, Mangalore
44. H.S. Swamy,
Assistant, K S F I C
Fire Wood Depot,
Post Mulki,
Mangalore, S.K.
- 

45. B. Somashekara,
Assistant, Office of the
Managing Director,
K.S.F.I.C. Ltd.,
No. 32/1, and 3, Crescent Road,
Bangalore - 1
46. Smt. R.N. Saroja,
Assistant,
Office of the Managing Director,
K S F I C Ltd.,
No. 32/1 & 3, Crescent Road,
Bangalore - 560 001
47. Smt. Vijaya R. Jagadale
Assistant,
Office of the Managing Director,
K.S.F.I.C. Ltd.,
No. 32/1 & 3, Crescent
Road, Bangalore - 1
48. P.C. Lokappa Gowda,
Assistant, Office of the
Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road, Shimoga - 577 201
49. P. Panduranga Vittal,
Assistant, K.S.F.I.C.
Fire Wood depot,
New Town,
Post Bhadravathi
Shimoga District
50. L.G. Dayananda,
Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Kollegala,
Mysore district
51. F.B. Patil,
Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Kundagola,
Dharwad District
- 

52. S.M. Bala Reddy,
Junior Assistant,
K.S.F.I.C Fire Wood Depot,
Post Old Hubli,
Hubli,
Dharwar District
53. K.R. Majjigudda,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Near Rani Channamma Park,
Post Dharwad
54. B.M. Nimbanaiker
Junior Assistant,
K S F I C Fire Wood Depot,
Post Old Hubli,
Hubli-Dharwar district
55. A.K. Naik,
Junior Assistant,
K S F I C Fire Wood Depot,
Tilakawadi,
Belgaum Post
56. G.P. Yeligar,
Junior Assistant,
K.S.F.I.C.Fire Wood Depot,
Visweswaranagar,
Belgaum Post,
Belgaum district
57. B.K. Mangalore,
Junior Assistant, K.S.F.I.C.
Fire Wood Depot,
Post Gadag (Dharwar district)
58. D.C. Kulkarni,
Junior Assistant, Attender,
Office of the Regional Manager,
K.S.F.I.C Ltd.,
Old S.P. Office,
Belgaum Road,
Dharwad Post.

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59. P. Siddaramappa,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Keshavapura,
Hubli Post,
Dharwar District
60. V.B. Saunshi,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Vadaga
Belgaum Post,
Belgaum District
61. H.B. Shiggavi,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Laxmeshwar
Dharwar District
62. M.V. Bommanagoudar,
Junior Assistant,
K.S.F.I.C. Agent,
c/o Range Forest Officer,
Post Gunji, Khanapur Taluk,
Belgaum District
63. M.K. Hubballi,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Akki Alur,
Dharwad district
64. D.B. Madival,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Hangal,
Dharwar District
65. L.S. Madalmani,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Haveri,
Dharwar District

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66. R.B. Naik,
Junior Assistant,
Supervisor, K.S.F.I.C. Ltd.,
Post Katur,
Mundagod (N.K.)
67. S.S. Sabalad,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Ranibenmur,
Dharwar District
68. R.B. Malluramath,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Ranibennur,
Dharwar District
69. B.L. Chikkannavar,
Junior Assistant,
K.S.F.I.C. Fire Wood
Depot, P.B. Road,
Post Haveri,
Dharwar District
70. B.B. Betsur,
Junior Assistant,
K.S.F.I.C. Ltd.,
Government Timber Depot,
Post Dandeli (N.K.).
71. K.T. Gunjekar,
Junior Assistant,
K.S.F.I.C. Ltd.,
Tavaragatti Station,
Post Nagaragali,
Khanapur Taluk,
Belgaum District
72. R.S. Hiremath,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Gadag,
Dharwar District


W


73. Umakanth, S. Naik,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Shahapur,
Belgaum District
74. D.J. Gonsalines,
Junior Assistant,
Logging Supervisor,
K.S.F.I.C. Ltd.,
Post Katur,
Mundagod Taluk,
North Kanara District
75. M.B. Nagekar,
Junior Assistant,
K.S.F.I.C. Ltd.,
Agent, Post Nagaragali,
Khanapur District,
Belgaum district
76. J.E. Chandrashekarappa,
Junior Assistant,
Office of the Regional Manager,
K S F I C Ltd.,
45-A, to 49-A, New Timber Yard
Layout, Byatarayanapura,
Bangalore - 26
77. Basavaraje gowda,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
45-A, to 49-A,
New Timber Yard Layout,
Bytarayanapura,
Bangalore - 560 026
78. Mrutyunjaya,
Assistant, K.S.F.I.C.
Fire Wood Depot,
Honnali Road,
Shimoga - 577-201


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79. M.H. Naik,
Junior Assistant,
K.S.F.I.C. Timber Yard,
Byatarayanapura,
Mysore Road, Bangalore
80. B. Satyanarayana,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd., Honnali Road,
Shimoga - 577 201
81. M.R. Ramesha,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
82. Narasimha Murthy,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
83. B.R. Savanoor,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
84. Ramachandara,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201
85. J.M. D'Souza,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Honnali Road,
Shimoga - 577 201

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86. A.K. Naik,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Korpalaiah Choultri,
Fort Road, Shimoga - 577 201
87. T.R. Anjanappa,
Junior Assistant,
K.S.F.I.C. Fire wood depot,
Ramanna Settipark,
Shimoga - 577 201
88. K.V. Satyanarayana,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Circuit House Road,
Shimoga - 577201
89. M.K. Hosur,
Junior Assistant, K.S.F.I.C.
Fire Wood Depot,
Durgigudi,
Shimoga - 577 201
90. S. Govindappa, Junior
Assistant, K.S.F.I.C. Fire
Wood Depot, R.F.O.
Compound, B.H. Road,
Post Bhadravathi
(Shimoga district)
91. T.S. Basappa,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
New Town, Post Bhadravathi,
Shimoga district
92. G.T. Shivakumar,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Kadur,
Chickmagalur district
93. V.B. Naik,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Sandi Market,
Post Chickmagalur
- 

94. Chikkaboraiiah,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Davanagere,
Chitradurga District
 95. T.N. Rajegoda,
Junior Assistant,
K.S.F.I.C. G.G.D. Project,
Balekoppa, Post- Shiralagi,
Siddapur Taluk, N.K.
 96. M.M. Byadagi,
Junior Assistant,
Office of the Regional Manager,
K S F I C Ltd.,
Old S.P. Office,
Belgaum Road,
Dharwar
 97. H.P. Suresh,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post - Hunsur,
Mysore District
 98. V.K. Somashekar,
Junior Assistant, Office of
the Regional Manager,
K.S.F.I.C. Ltd., Honnali Road,
Shimoga - 577 201
 99. R.M. Aryar,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post - Kundagol,
Dharwar district
 100. K.N. Chaluvegowda,
Junior Assistant, K.S.F.I.C.
Fire Wood Depot,
D.F.O. Compound,
Post Hassan
 101. T.S. Sannad,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Kollegal,
Mysore District
- 

102. K. Naganna Gowda,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
D.F.O. Compound,
Post Hassan
103. Krishna Bhatt,
Junior Assistant,
Office of the Manager,
K.S.F.I.C. Ltd.,
Alpe, Mangalore
104. Veerabhadrappa,
Junior Assistant, K.S.F.I.C.
Fire Wood Depot,
B.C. Road, Post Mangalore
105. Sadananda Swamy,
Junior Assistant,
c/o. M/s. Chandan Plastic Industries,
D-5, Industrial Estate,
Chitradurga Post - 577 501
106. Nagaraj
Junior Assistant,
Office of the Managing Director
K.S.F.I.C. Ltd.,
No. 32/1 & 2 Crescent Road,
Bangalore - 1
107. Smt. S.R. Yamunabai
Junior Assistant,
K.S.F.I.C. Ltd.,
Alpe, Mangalore
108. G.N. Malleesh,
Junior Assistant,
Office of the Project Officer,
K.S.F.I.C. Ltd.,
No. 273/4, New Layout,
Indiranagar,
Mysore - 10
109. G. Krishna,
Junior Assistant, K.S.F.I.C.
Saw Mills,
Post Murkal (Via Hunsur),
Virajpet Taluk,
Mercara District
- 

110. N.R. Kulkarni,
Junior Assistant,
K.S.F.I.C. Pineapple Project,
Navanageri Cross,
Banavasi Post,
Sirsi Taluk, North Kanara
111. N. Bheemareddy,
Junior Assistant,
K.S.F.I.C. Fire Wood Depot,
Post Davanagere,
Chitradurga District
112. S.D. Harlapur,
Junior Assistant,
Office of the Regional Manager,
K.S.F.I.C. Ltd.,
Old S.P. Office,
Belgaum Road,
Dharwar
113. Smt.M. Rajeswari,
Junior Assistant,
Office of the Managing Director,
The K.S.F.I.C. Ltd.,
No. 32/1 & 2, Crescent Road,
Bangalore - 1

.. RESPONDENTS

(Sri Subramanyam for
Sri B.C. Prabhakar, Advocate for R-1)

(Sri M.S. Nataraj Murthy &
Sri M.A. Shama Iyengar, Adv. for R-8,9,15,17,21,46,
47,48,82,83,87,89,98,110)

(Sri N. Basavaraj, Adv. for R-18, 20, 22, 23, 27, 29,
32, 35, 51, 52, 55, 56, 59, 60, 62, 66, 70, 73, 74, 75,
92, 95, 112)

(Services on R-4, 10, 11, 13, 30, 42, 67, 68, 78, 80, 81
85, 86, 88, 90, 91, 93, 113) are held sufficient vide
Order dt. 9-8-94)

R-2, 7, 12, 14, 39, 57, 72, 84, 92 & 105 are deleted vide
order dt. 15-11-95 & 12-1-96.

R-3, 5, 6, 16, 21, 25, 28, 31, 34, 37, 38, 40, 41, 43,
44, 45, 49, 50, 53, 54, 58, 61, 63, 64, 65, 69, 71, 76,
77, 79, 94, 96, 92, 99, 100, 101 to 111 are served.



Writ Petitions filed under Articles 226 & 227 of the Constitution of India, praying to:

- 1) Order for the connected records relating to the reclassifications/promotions of Respondents 3 to 113.
- ii) Declare the reclassifications/promotions of respondents 3 to 51 as illegal;
- iii) Declare the reclassifications/promotions of respondents 52 to 113 as illegal;
- (iv) Issue a direction to the respondents to make promotion as per the cadre and recruitment rules reserving 18% of the posts to SC/ST and to promote the 2nd petitioner as Assistant in the scale of pay Rs.1190-2200 with effect from the date on which his juniors were promoted.
- (v) issue a direction to the respondents to fill up 85% of the vacant posts of Assistants/FOW/FDC by direct recruitment reserving 18% for SC/ST.
- (vi) issue any other order, direction or writ deemed fit and proper in favour of the petitioners in the circumstances of the case.

These writ petitions having been heard and reserved for orders and coming on this day for pronouncement of orders, the Court pronounced the following:

ORDER

O R D E R

The 1st petitioner is an an Association and the 2nd petitioner is one of its members. Their complaint in essence is that the employer, the 1st respondent Company herein, is ignoring and violating the Cadre and Recruitment Rules of the Company by giving 100% promotion in all vacancies without earmarking reservation quota in the matter of recruitment and promotion to the Scheduled Castes and Tribes as per rules and that many of the juniors to the 2nd petitioner have been promoted overlooking the claim of their seniors. It is alleged that as per Annexure-A dated 31-8-1985, the 1st respondent recruited large number of persons on daily wages. Thereafter, Annexure-B Circular was issued on 1-1-1986, awarding scale of pay to these workers awarding consolidated pay. Later, Annexure-C was issued on 23-4-1986 appointing all graduates in service as Junior Assistants (Grade-I) in the pay scale of Rs.490-950 and those employees who are non-graduates were appointed as Junior Assistants (Grade-II). No reservation was provided in these appointments to members of Scheduled Castes/Tribes. Thereafter, as per Annexure-E, all the Junior Assistants (Grade-I) were brought in the time scale of Rs.1190-2200/- with effect from 1-10-1987.

Respondents

Respondents Nos.3 to 51 are such of those employees who are the beneficiaries of Annexure-E. Similarly, as per Annexure-F, Junior Assistants (Grade-II) were reclassified as Junior Assistants (Grade-I) with effect from 1-10-1987. Respondents Nos.52 to 113 are such of those employees. It is alleged that in neither of the cases, the 1st respondent had followed the rule of reservation. They allege that these classifications etc., are adopted by the 1st respondent to circumvent the rule of reservation. Hence, the petitioners have approached this Court seeking the following reliefs:

- i) Order for the connected records relating to the reclassifications/ promotions of Respondents 3 to 113;
- ii) Declare the reclassifications/ promotions of respondents 3 to 51 as illegal;
- iii) Declare the reclassifications/ promotions of respondents 52 to 113 as illegal;
- iv) Issue a direction to the respondents to make promotion as per the cadre and recruitment rules reserving 18% of the posts to SC/ST and to promote the 2nd petitioner as Assistant in the scale of pay Rs.1190-2200 with effect from the date on which his juniors were promoted.

- v) Issue a direction to the respondents to fill up 85% of the vacant posts of Assistants/FOW/FDC by direct recruitment reserving 18% for SC/ST.
- vi) Issue any other order, direction or writ deemed fit and proper in favour of the petitioners in the circumstances of the case."

2. A detailed statement of objections has been filed by the 1st respondent. The principal contention of the 1st respondent is that it had earlier recruited about 225 daily rated employees in the year 1974 and later they moved the Industrial Tribunal as I.D.5/82 seeking relief in relation to their service conditions. The Industrial Tribunal, as per its Award dated 2-7-1984, directed that the employees who are already working on daily wages in the Firewood Depots of the 1st respondent shall be appointed against permanent vacancies. As the Management needed some time to take a decision in the matter, these daily rated workers went on fast in front of Vidhana Soudha, whereafter, a meeting of all concerned was convened and it was decided that consolidated wages be given to the daily rated workers. Accordingly, graduates among them were awarded Rs.500/- and non-graduates Rs.400/-. Thereafter, in terms of the Award in I.D.5/82, with effect from 1-1-1986, the graduates were fitted in the scale of Rs.490-950 whereas the

non-

non-graduates in the scale of Rs.410-700/-. The posts were reclassified with effect from 1-10-1987 as Junior Assistants (Grade-I) (who are graduates) and as Junior Assistants (Grade-II) (non-graduates) awarding them separate scale of pay attached to these posts. Thus the direction given by the Tribunal to absorb the workers was complied with. The 2nd petitioner was appointed as a Field Assistant in the scale of of pay of Rs.80-145 with effect from 4-10-1976. His educational qualification is S.S.L.C. He was later promoted as Junior Assistant in the grade of Rs.960-1760/- with effect from 1-10-1987. He being not a graduate cannot dispute the claim of respondents Nos.3 to 51. It is alleged that the absorption of respondents Nos.3 to 113 has been in implementation of the Award made by the Industrial Tribunal. The classification or reclassification is not a case of promotion. As such, the rule of reservation does not affect such cases and cannot be extended.

3. I have heard Mr.O.Sreedharan, learned counsel for the petitioners, and Mr.Subramanyam, learned counsel for the 1st respondent.

4. Essentially the benefits conferred on respondents Nos.3 to 113 is the fallout of the Award made
by

by the Industrial Tribunal in I.D.5/82. When the Award therein directed that the daily rated workers be regularised, it has to be implemented faithfully and as such there was no scope to apply the rule of reservation now claimed by the petitioners. The following is the direction issued by the Industrial Tribunal:

"(a) The I-Party is not justified in demanding that 225 permanent vacancies shall be immediately offered to them for being filled-in, but the 225 employees who are already working on daily wage basis in the Firewood Depots of the II-Party shall be accommodated in permanent vacancies if and when the said 225 permanent vacancies are opened for being filled-up. The second party is further directed to take a final decision in that connection as early as possible."

That means, these workers who are ex nomine parties to the Award, have earned a right. Thereafter, as per Annexure-A, these workers were absorbed. Then, after they are absorbed, the next stage is awarding the workers the scale of pay. Annexure-B is the relevant circular issued in this behalf. Annexure-C is the order, fixing the graduates and non-graduates in the respective scale of pay.

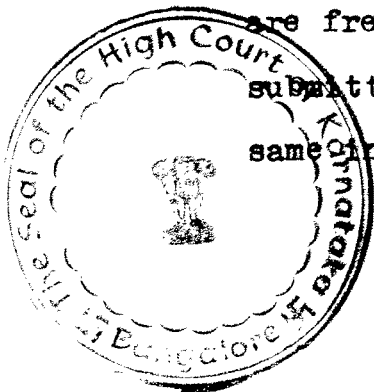
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As per Annexures E and F, these posts were reclassified and the employees were placed in that scale of pay. It is to be noted that as per reclassification, there is no promotion. It is only awarding a higher scale of pay. A promotion necessarily involves stepping up from a lower post to a higher post. This did not take place in the instant case. The duties attached to the incumbent of the post of Junior Assistant Grade I remained as such; but he was placed on a different pay scale; likewise, in the case of a Junior Assistant Grade-II. Therefore, reclassification of a post from one grade to another grade of pay unaccompanied by any change of duty is not a promotion. I, therefore, hold that the 1st respondent did not make any fresh recruitment of respondents Nos.3 to 113 to its employment, nor did it promote any of them contrary to the rule of reservation. As such, none of the grievances of the petitioners highlighted have been established.

5. In the result, the Writ Petitions fail. They are dismissed. However, respondents Nos.1 and 2

are free to examine the representation Annexure-G submitted by the 1st petitioner and deal with the same in accordance with law.



Sd/-
JUDGE